

Attachment 3

U.S. Coast Guard Authentication Declaration

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREG ABBOTT, in his capacity as GOVERNOR
OF THE STATE OF TEXAS, and THE STATE OF
TEXAS,

Defendants.

Civil Action No.

**DECLARATION OF CAPT BRANDY PARKER REGARDING NAVIGABILITY
DETERMINATION OF THE RIO GRANDE RIVER**

1. My name is Brandy Parker. I am either personally acquainted with the facts herein stated or have otherwise been made aware of them through the course of my duties, and declare as follows:

2. I am employed by the United States Coast Guard within the Department of Homeland Security and am located in New Orleans, Louisiana. I have served in the Coast Guard for 26 years.

3. I am currently assigned as the Staff Judge Advocate in Coast Guard District 8 (“CGD8”), which is the Coast Guard area of responsibility that encompasses the Rio Grande River. In this position, I am responsible for providing legal advice to the Commander, CGD8, managing a staff of attorneys in the performance of their duties, and maintaining records of navigability determinations.

4. As part of my duties, I routinely review Coast Guard navigability determinations for waterways within the CGD8 area of responsibility.

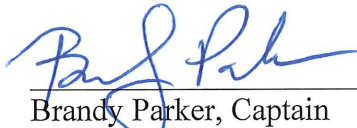
5. Navigable waters of the United States are defined in 33 C.F.R. § 2.36. Navigability determinations of specific waterways are routinely made and reviewed by the Coast Guard in order to determine its jurisdiction. *See* 33 C.F.R. § 2.40. “Copies of these determinations are maintained

by the [Coast Guard] District Commander in whose district the waterway is located.” *Id.*

6. Exhibit A is a copy of the public record of the 1984 Rio Grande River navigability determination. It is maintained in the district in which that river is located by the District Commander of CGD8. This public record was made by the Coast Guard office—CGD8—with the legal authority to make such a determination. These types of determinations are a regularly conducted activity of this office. Upon review, the 1984 navigability determination is still in effect. Accordingly, the Rio Grande River remains navigable waters of the United States.

I hereby declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge and information.

Dated this 24 day of July 2023.



Brandy Parker, Captain
United States Coast Guard

EXHIBIT A

U.S. Department
of Transportation
**United States
Coast Guard**



COMMANDER
EIGHTH COAST GUARD DISTRICT
HALE BOGGS FEDERAL BLDG.

500 CAMP ST.
NEW ORLEANS, LA. 70130
STAFF SYMBOL:
PHONE:

(d1)
(504)589-6188

16731
OCT 19 1984

From: Commander, Eighth Coast Guard District
To: Commanding Officer, Marine Safety Office Corpus Christi, TX
Subj: Navigability Determination, Rio Grande River, TX
Ref: (a) Commanding Officer, MSO Corpus Christi ltr 16730 of 15
December 83
(b) COMDTINST 16210.1B

1. From 1947 to 1975 the Rio Grande River was listed among the navigable waters of the United States pursuant to treaties with Mexico and for Coast Guard regulatory purposes. This determination covers the river "for the entire distance where it forms the international boundary, to a point near El Paso, Texas" or from its mouth at the Gulf of Mexico (mile 0.0 to mile 1247). This finding was published at 33 C.F.R. § 2.66-5 until 1976 when the practice of publishing lists of waters determined to be navigable for Coast Guard jurisdictional purposes was discontinued.

2. Under the rule that, despite artificial or natural obstructions, once a stream has been found to be of navigable use it remains so, the designated stretch of the Rio Grande River remains a navigable waterway of the United States. See Economy Light Co. v. U.S., 256 U.S. 113 (1921). The vessel manning and inspection laws of the United States apply to vessels operating on it. Obviously, whether a vessel is subject to those laws is a function of its tonnage, cargo, route, etc.

3. This represents the opinion of the Coast Guard only as to the extent of its own jurisdiction, and does not address the jurisdiction of other agencies.

T. W. SNOOK
By direction

Copy to: CCGD8 (obr)
COMDT (G-M-TH-4/13)
COMDT G-LMI

From: Commander, Eighth Coast Guard District
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1. On 29 August 1947, Commander, Eighth Coast Guard District, determined that the Rio Grande River was part of the navigable waters of the U.S. for Coast Guard regulatory purposes "for the entire distance where it forms the international boundary, to a point near El Paso, Texas." This finding was published at 33 C.F.R. { 2.66-5 until 1976 when the practice of publishing lists of waters determined to be navigable for Coast Guard jurisdictional purposes was discontinued.
2. Under the rule that, despite artificial or natural obstructions, once a stream has been found to be of navigable use it remains so, the Rio Grande River from the Gulf of Mexico to El Paso remains a navigable waterway of the United States. See Economy Light Co. v. U.S., 256 U.S. 113 (1921). The vessel manning and inspection laws of the United States apply to vessels operating on it. Obviously, whether a vessel is subject to those laws is a function of its tonnage, cargo, route, etc.
3. This represents only the opinion of the Coast Guard as to the extent of its own jurisdiction, and does not address jurisdiction of other agencies.

Thomas W. Snook
By direction

From: Commander 8th Coast Guard District (dl)
To: Commandant (G-MTH-4/13)